

R E M A R K S

Careful review and examination of the subject application are noted and appreciated. Applicant's representative thanks Examiner Chang for the indication of allowed claims.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 37-52 and 55 under 35 U.S.C. §103(a) as being unpatentable over Sahlman et al. (U.S. Pat. No. 6,693,902; hereinafter Sahlman) in view of McMillen et al. (U.S. Pat. No. 6,243,361; hereinafter McMillen) and further in view of Ohara (U.S. Patent No. 5,144,297) is respectfully traversed and should be withdrawn.

The Office Action does not appear to be complete with respect to claims 37-52, 55 and 56 (see 37 CFR 1.104). Specifically, the Office Action fails to provide any basis or explanation for the rejection of claims 55 and 56 (see pages 3-6 of the Office Action mailed November 29, 2006) and does not expressly state how the cited references are applied to each of the specifically claimed limitations recited in claims 37-52. In particular, claim 37 recites "A digital cross connect comprising plural switching stages, each stage having plural switches on plural chips receiving plural frames of time multiplexed input data and switching the data in time and space, switches of different stages being on common chips supporting respective framing time bases for the different stages." Claim 41 recites "A switch circuit on an integrated circuit chip comprising switch circuitry

receiving plural frames of time multiplexed input data and switching the data in time and space, a first frame counter to which a first portion of the plural frames of time multiplexed input data is synchronized and a second frame counter to which a second portion of the plural frames of time multiplexed input data is synchronized." Although the Office Action cites Sahlman, McMillen and Ohara, the Office Action does not expressly state how the references are applied to each of the specifically claimed limitations recited in claims 37-52. Furthermore, the Office Action fails to provide any basis or explanation for the rejection of claims 55 and 56 (see pages 3-6 of the Office Action mailed November 29, 2006). As such, the Office Action does not appear to be complete as to all matters with respect to claims 37-52, 55 and 56, as required under 37 CFR 1.104.

For example, the Office Action does not point out where the cited references teach or suggest the specific limitations of "each stage having plural switches **on plural chips**" or "switches of different stages being **on common chips** supporting respective framing time bases for the different stages" as recited in claim 37. The Office Action also does not point out why one of ordinary skill in the field of the invention would consider a counter mounted in a signal generator (as recited in column 6, lines 25-30 of Ohara) as teaching or suggesting the specific limitation of "**a first frame counter** to which a first portion of the plural frames of time multiplexed input data is synchronized **AND a second frame**

counter to which a second portion of the plural frames of time multiplexed input data is synchronized" as recited in claim 41. In particular, "a counter," as recited in Ohara, is singular and generic, and therefore does not teach or suggest a first frame counter AND a second frame counter, as presently claimed.

Furthermore, the rejection of the dependent claims 38-40 and 42-52 with the mere statements that the claims have limitations that are similar to the respective independent claims and thus are rejected with the same rationale applied against the independent claims (see page 6, lines 7-18 of the Office Action mailed November 29, 2006) does not appear to be a proper rejection. In particular, the rejection fails to specifically address the specific limitations of each dependent claim and clearly show how the cited references are considered to read on the specific limitations. Therefore the rejection does not appear to be proper and should be withdrawn.

Furthermore, claim 55 recites the switch circuit as claimed in claim 43, further comprising configuration storage, wherein (i) the configuration storage is configured to store a primary time/space configuration and a standby time/space configuration and (ii) the switch circuitry is configured to switch between the primary time/space configuration and standby time/space configuration in response to the configuration select signal. Claim 56 recites the digital cross connect as claimed in claim 37, further comprising configuration storage at each switch configured

to store a primary time/space configuration table and a standby time/space configuration table, wherein each switch is configured to switch between the primary time/space configuration and standby time/space configuration in response to a configuration select signal. The Office previously admitted that the cited references fail to teach or make obvious the limitations of "the configuration storage at each switch is configured to store a primary time/space configuration table and a standby time/space configuration table and each switch is configured to switch between the primary and secondary tables in response to the configuration select signal" (see Reason for indicating Allowable Subject Matter, section 6, page 8, of the Office Action mailed May 17, 2006). As such, the rejection of claims 55 and 56 does not appear to be sustainable and should be withdrawn.

Since the Office Action does not identify exactly what portions of the applied references are considered to teach or suggest each of the specific limitations recited in claims 37-52, 55 and 56 (see pages 3-7 of the Office Action mailed November 29, 2006), it follows that the Office Action is not complete as to all matters regarding claims 37-52, 55 and 56. Accordingly, the Office Action fails to meet the Office's burden to establish a factual basis to support a *prima facie* conclusion of obviousness. Therefore the rejection does not appear to be sustainable and should be withdrawn.

Furthermore, Applicant's representative respectfully requests that the Examiner provide objective evidence on the record

or an affidavit under 37 CFR 1.104(d)(2) with respect to any rejection based partly on the Examiner's personal knowledge to support the position taken in the Office Action that "... it would have been obvious to one of ordinary skill in the art at the time the invention was made to integrate the switching functions of different stages into a single chip form or multiple common chips form to perform the same functions of plural switches of different stages which is merely **a matter of obvious engineering design choice** since it has been held by In re Larson, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965)" (see Response to arguments, page 2, lines 10-18 of the Office Action mailed November 29, 2006). The above conclusory statement does not adequately address the issue of motivation. The factual question of motivation is material to patentability, and can not be resolved on subjective belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to a combination of references, simply to use that which the inventor taught against its teacher. As such, the rejection does not appear to be sustainable and should be withdrawn.

Claims 2-4, 6-20, 22-36, 54, 57 and 58 are allowed (see page 6, last line of the Office Action mailed November 29, 2006).

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

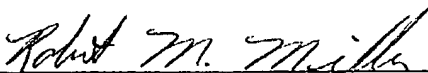
The Examiner is respectfully invited to call the Applicant's representative between the hours of 9 a.m. and 5 p.m.

ET at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 12-2252.

Respectfully submitted,

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